

Message Text

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ORIGIN EB-07

INFO OCT-01 ISO-00 CIAE-00 COME-00 DODE-00 DOTE-00 FMC-01

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DRAFTED BY EB/TCA/MA:JAPURNELL:EW

APPROVED BY EB/TCA/MA:RKBANK

ARA/BR:TSHUGART

FMC:WJSMITH

ARA/ECP:DLACEY

MARAD:RBOURDON

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P 122320Z AUG 76

FM SECSTATE WASHDC

TO AMEMBASSY BRASILIA PRIORITY

INFO AMCONSUL RIO DE JANEIRO PRIORITY

AMCONSUL SAO PAULO PRIORITY

C O N F I D E N T I A L STATE 201131

E.O. 11652: GDS

TAGS: EWWT, BR

SUBJECT: SHIPPING: PRUDENTIAL FROZEN ORANGE JUICE
COMPLAINT

REF: (A) STATE 196636; (B) STATE 125087; (C) BRASILIA
2937; (D) BRASILIA 4993; (E) STATE 153260;
(F) STATE 173636

1. ON AUGUST 11, ATTORNEYS FOR PRUDENTIAL LINES IN A
MEETING WITH OFFICE OF MARITIME AFFAIRS (EB/TCA/MA)
INFORMED THE DEPARTMENT THAT PRUDENTIAL INTENDED TO
FILE A COMPLAINT WITH THE FMC ON AUGUST 12 ALLEGING
THAT THE APPLICABLE PFOVISIONS OF THE BRAZILIAN EXPORT
INCENTIVE LEGISLATION WERE DISCRIMINATORY. THE COMPLAINT
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WOULD HAVE SOUGHT RELIEF UNDER SECTION 19 OF THE SHIPPING
ACT, 1920 (REFTEL B). PRUDENTIAL'S DECISION TO SEEK

SUCH RELIEF APPARENTLY HAD BEEN SPARKED BY INFORMATION THAT THE NEXT LARGE SHIPMENT OF FOJC IS DUE TO TAKE PLACE AUGUST 21, AND BY THE FACT THAT LITTLE PROGRESS HAS BEEN ACHIEVED TO DATE IN THEIR ATTEMPT TO HAVE THE BRAZILIANS AMEND THEIR REGULATIONS AND THEREBY FORESTALL A LOSS TO PRUDENTIAL OF ANOTHER LARGE SHIPMENT.

2. DEPTOFFS POINTED OUT TO PRUDENTIAL'S ATTORNEYS THAT WE HAD NOT YET RECEIVED A RESPONSE FROM THE EMBASSY IN BRASILIA OR FROM THE BRAZILIAN EMBASSY IN WASHINGTON. MOREOVER, ROBERT J. BLACKWELL, ASSISTANT SECRETARY OF COMMERCE FOR MARITIME AFFAIRS HAS BEEN SCHEDULED TO VISIT BRAZIL SEPTEMBER 10-16 TO MEET WITH OFFICIALS OF SUNAMAN (PRIMARILY ON OTHER SHIPPING MATTERS) AND THAT

FILING A SECTION 19 COMPLAINT AT THIS TIME WOULD COMPLICATE BLACKWELL'S DISCUSSIONS.

3. PRUDENTIAL'S ATTORNEY PHONED DEPTOFF AUGUST 12 TO SAY THAT PRUDENTIAL ON RECONSIDERATION HAD DECIDED TO POSTPONE FILING ITS SECTION 19 COMPLAINT BUT WOULD WAIT FOR RESULTS OF EMBASSY REPRESENTATION AND THE BLACKWELL VISIT. HE EMPHASIZED THAT THIS DECISION WOULD NOT REFLECT ANY LESSENING OF PRUDENTIAL'S DETERMINATION TO END THE DISCRIMINATION AND REQUESTED THE DEPARTMENT'S ASSISTANCE IN DETERMINING ITS PRECISE EXTENT. PRUDENTIAL BELIEVES THAT THE TAX CREDIT FOR JOJC WAS NOT REDUCED FROM 15 PERCENT TO 8 PERCENT ON JUNE 1, 1976 (SEE REFTTEL C), BUT MAY HAVE BEEN INCREASED. PRUDENTIAL HAS PROVIDED DEPARTMENT WITH DOCUMENTATION, A COPY OF WHICH WE ARE POUCHING TO EMBASSY, INDICATING THAT THE EFFECTIVE RATE IS 24.8 PERCENT. THERE ARE ALSO REPORTS THAT IFI TAX CREDITS CAN BE OBTAINED MORE EASILY THAN WE HAD EARLIER THOUGHT IN THE FORM OF CASH REBATES.

4. ACTION REQUESTED:

A. EMBASSY REQUESTED TO DETERMINE EXACT RATE OF IFI TAX
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CREDIT FOR FOJC AND DETERMINE IF CASH REBATES TO SHIPPERS WHICH USE BRAZILIAN FLAG VESSELS AND INSURE WITH BRAZILIAN COMPANIES HAVE BECOME COMMON PRACTICE. POUCH SOONEST TO EB/TCA/MA COPIES DECREE 64833 AND REGULATIONS PURSUANT TO IT, INCLUDING PORTARIA 181 OF MAY 19, 1975 WHICH ESTABLISH FISCAL INCENTIVES AND OTHER PROVISIONS DISCRIMINATORY TO FOREIGN FLAG SHIPPING.

B. EMBASSY REQUESTED TO IMPRESS UPON BRAZILIAN OFFI-

CIALS THE URGENCY AND SERIOUSNESS OF PRUDENTIAL'S
DETERMINATION AND ATTEMPT TO OBTAIN RESPONSE FROM GOB
OFFICIALS TO EARLIER REPRESENTATIONS (REFTELS D AND E).
FYI. DO NOT REVEAL THAT PRUDENTIAL WAS ON THE VERGE
OF SECTION 19 ACTION AND DESISTED, BUT RESTRICT COMMENTS
TO FACT THAT PRUDENTIAL WILL BE UNDER TREMENDOUS

PRESSURE TO SEEK SUCH RELIEF IF IT LOSES OUT COMPLETELY
ON THE NEXT LARGE SHIPMENT OF FOJC BECAUSE OF THE
DISCRIMINATORY PROVISIONS OF BRAZIL'S EXPORT INCENTIVE
PROGRAM. END FYI.

C. EMBASSY REQUESTED TO DETERMINE WHETHER NEXT MAJOR
SHIPMENT OF FOJC WILL IN FACT TAKE PLACE ON AUGUST 21,
AND WHETHER SUFFICIENT BRAZILIAN TONNAGE WOULD BE
AVAILABLE TO CARRY CARGO.

5. DEPARTMENT WILL INFORM BRAZILIAN EMBASSY, WASHINGTON,
OF URGENCY AND SERIOUSNESS OF SITUATION AND REQUEST
EMBASSY TO RENEW ITS EFFORTS TO CONVINCE BRASILIA OF
NEED TO RESOLVE THE PROBLEM. KISSINGER

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